



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10**

1200 Sixth Avenue, Suite 900  
Seattle, WA 98101-3140

MAR 22 2017

OFFICE OF  
COMPLIANCE AND ENFORCEMENT

Reply To: OCE-101

**CERTIFIED MAIL – RETURN RECEIPT REQUESTED**

Mr. Gary Barklind  
Shell Anacortes Refinery  
8505 South Texas Road  
Anacortes, Washington 98221

Re: Notice of Violation  
Shell Anacortes Refinery  
EPA ID No. WAD 00927 6197

Dear Mr. Barklind:

This Notice of Violation (NOV) is to inform you of violations of the Washington State Hazardous Waste Management Act as authorized by the U.S. Environmental Protection Agency (EPA) pursuant to the Resource Conservation and Recovery Act (RCRA). These violations were identified as a result of an inspection performed by EPA on August 10-14, 2015, at the Shell Anacortes Refinery, located at 8505 South Texas Road, Anacortes, Washington. The inspection was performed pursuant to EPA's inspection authority under Section 3007 of RCRA, 42 U.S.C. § 6927.

From the observations made during the inspection, the following RCRA violations were identified at the facility:

**Violation 1: Failure to make a dangerous waste determination.**

The regulation at WAC 173-303-070 describes procedures for determining whether or not a solid waste is a dangerous waste.

At the time of the inspection, Shell Anacortes Refinery was storing 10,987 barrels of DNF float (dangerous waste K048). The facility representative told inspectors that the DNF was being accumulated in Tanks 61, 70, 71, and 206 until it could be fed into the on-site coker unit. Prior to the date of the inspection, the last time DNF was fed into the on-site coker unit was November 21, 2013, and DNF had been accumulated in tanks since that time. Oil bearing wastes, such as DNF, that are generated at a petroleum refinery are not dangerous waste if they are recycled by being reinserted back into the petroleum refining process.

However, if that oil bearing waste is speculatively accumulated, it is subject to all applicable regulations. To not be speculatively accumulated, the amount of waste in accumulation at the beginning of the calendar year must be reduced by weight or volume by 75% by the end of the calendar year. See WAC 173-303-016 definition of “accumulated speculatively.”

As the Shell Anacortes Refinery did not recycle at least 75% of the DNF that was being accumulated on-site on January 1, 2014, the DNF was not exempt from regulation. Any DNF in storage on January 1, 2015, and any accumulation after that date, up to **at least** the 10,987 barrels of DNF float in Tanks 61, 70, 71 and 206 that was noted during the inspection, should have been designated as dangerous waste (K048).

Shell Anacortes Refinery failed to designate the DNF as dangerous waste on January 1, 2015, after accumulating the DNF for one year without reducing the weight or the volume by 75%.

**Violation 2: Accumulation of dangerous waste for greater than 90 days without a permit or interim status.**

The regulation at WAC 173-303-200 allows a generator to accumulate dangerous waste on-site without a permit for 90 days.

Shell Anacortes Refinery had been using some or all of Tanks 61, 70, 71 and 206 to accumulate DNF prior to recycling since on or about November 21, 2013. On January 1, 2015, any DNF that had been accumulated on-site became subject to all applicable regulations. Shell Anacortes Refinery had been accumulating dangerous waste K048 since November 21, 2013, approximately 32 months.

**Violation 2: Failure to label tanks**

The regulation at WAC 173-303-200(1)(d) allows a generator to accumulate dangerous waste on-site without a permit or interim status provided that, among other things, while being accumulated on-site each tank is labeled or marked clearly with the words “dangerous waste” or “hazardous waste.”

At the time of the inspection, Tanks 61, 70, 71 and 260 were not labeled or clearly marked with the words “dangerous waste” or “hazardous waste.”

**Violation 3: Failure to develop and follow an inspection schedule**

The regulations at WAC 173-303-200(1)(b)(ii) and (e)(ii) allow a generator to accumulate dangerous waste on-site without a permit or interim status provided that, among other things, while being accumulated on-site the generator complies with the tank inspection requirements found at WAC 173-303-640(6) and the general inspection requirements found at WAC 173-303-320(1), (2a), (b), (d) and (3).

The regulations at WAC 173-303-640(6)(a), (b), (c) and (d) require that an inspection schedule be developed and followed for inspecting tank overfill controls; that at least once each day, the above ground portions of the tank be inspected to detect corrosion or releases of waste, gather data from monitoring and leak detection equipment to ensure that the tank system is being operated according to its design and, inspect the construction materials and the area immediately surrounding the externally accessible portion of the tank system, including the secondary containment system, to detect erosion or signs of release of dangerous waste; inspect the cathodic protection systems and document these

inspections in the operating record by keeping an inspection log that includes at least the date and time of the inspection, the printed name and the handwritten signature of the inspector, a notation of the observations and the date and nature of any repairs or remedial actions taken.

The requirements at WAC 173-303-320 include, among other things, developing and following a written schedule for inspecting all equipment; identifying the types of problems to look for when inspecting that equipment; and keeping an inspection log or summary, including at least the date and time of the inspection, the printed name and handwritten signature of the inspector and a notation of the observations made.

At the time of the inspection, a review of the dangerous waste inspection records did not indicate any inspections of Tanks 61, 70, 71 and 260 pursuant to WAC 173-303-320 or 640 had been conducted.

#### **Violation 4: Failure to close a satellite accumulation container**

The regulation at WAC 173-303-200(2) allows a generator to accumulate as much as 55- gallons of dangerous waste at or near any point of generation where waste initially accumulates, provided that, among other things, the generator complies with certain provisions of WAC 173-303-630.

WAC 173-303-630(5)(a) requires that a container holding dangerous waste must always be closed, except when it is necessary to add or remove waste.

At the time of the inspection, the inspectors observed a 55-gallon satellite accumulation container that was labeled as slop oil (dangerous waste K048). The lid was not held in place with a drum ring and there was a gap between the container and the lid, therefore the container was not closed.

At the time of the inspection, the inspectors observed a 55-gallon satellite accumulation container that was being used to manage K051 listed dangerous waste. The lid was not held in place with a drum ring and there was a gap between the container and the lid, therefore the container closed.

At the time of the inspection, the inspectors observed a 55-gallon satellite accumulation container located on the North Bundle Pad that was being used to accumulate K050. There was no drum ring holding the lid to the container and the lid of the container was askew on the top of the container. The container was not closed.

#### **Violation 5: Failure to properly manage a container of dangerous waste**

The regulation at WAC 173-303-200(1)(b)(i) allows a generator to accumulate dangerous waste without a permit or interim status provided that, among other things, the generator complies with WAC 173-303-630(2). The regulation at WAC 173-303-630(2) states that if a container holding dangerous waste is not in good condition or begins to leak, the owner or operator must transfer the dangerous waste from the container to a container that is in good condition or manage the waste in some way that complies with the requirements of chapter 173-303 WAC.

At the time of the inspection, a roll-off container (number 5429) with API separator sludge (dangerous waste K051) was observed leaking on the north bundle pad. A facility representative told the inspectors that the container was originally stored on the south bundle pad and when it started leaking, it was moved to the north bundle pad so it could drain into the pad drainage trench.

According to the container weekly inspection log for July 26 through August 1, 2015, roll-off container number 5429 was dripping into the secondary containment and on July 30, 2015, the roll-off container was moved to the north bundle pad. On the inspection log for August 2 through August 8, 2015, it was noted that the roll-off container was dripping onto the north bundle pad trench and the contents needed to be transferred to another roll-off container. According to a facility representative, roll-off container 5429 was stored on the north bundle pad for two weeks.

Shell Anacortes Refinery did not transfer the K051 dangerous waste into a container that was in good condition when it was found to be leaking.

#### **Violation 6: Failure to have a permit or interim status**

The regulation at WAC 173-303-200(b) allows a generator to accumulate dangerous waste on-site without a permit provided that, among other things, the waste is placed in or on one of the following types of units: containers, tanks, containment building or drip pads.

At the time of the inspection, the inspectors observed a roll-off container with API separator sludge (dangerous waste K051) leaking on the north bundle pad. According to the facility representative the roll-off had been on the north bundle pad for about two weeks. Prior to being moved to the north bundle pad, the roll-off container had been leaking on the south bundle pad for at least one week. Neither the north bundle pad nor the south bundle pad are units that may be used to accumulate dangerous waste without a permit or interim status.

#### **Required Action**

The above violations may subject Shell Anacortes Refinery to enforcement action under Section 3008 of RCRA, including the assessment of civil penalties. Within 20 days of receipt of this NOV, EPA requests that you submit a written response and/or photographs that identify actions you have taken or will take to correct the existing violations.

Please send all material submitted in response to this NOV to Cheryl Williams by email at [williams.cheryl@epa.gov](mailto:williams.cheryl@epa.gov), or:

Ms. Cheryl Williams  
U.S. Environmental Protection Agency  
RCRA Enforcement Unit, OCE-101  
1200 Sixth Avenue, Suite 900  
Seattle, Washington 98101


#### **EPA Reservation of Rights**

Notwithstanding this NOV or your response, EPA reserves the right to take any action pursuant to RCRA or any other applicable legal authority. Your response to this NOV does not constitute compliance with RCRA.

Nothing in this NOV or your response shall affect duties, obligations or responsibilities with respect to Shell Anacortes Refinery under local, state or federal law or regulation.

Thank you for your prompt attention to this important matter. If you have questions regarding this NOV, please contact Cheryl Williams of my staff at (206) 553-2137 or [williams.cheryl@epa.gov](mailto:williams.cheryl@epa.gov).

Sincerely,



Edward J. Kowalski  
Director

cc: Mr. Mark Dirkx  
Department of Ecology – Industrial Section